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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Public Service Commission of Kentucky's  
Petition for Additional Delegated Authority To  
Implement Number Conservation Measures

Implementation of the Local Competition  
Provisions of the Telecommunications Act  
of 1996

NSD File No. L-00-08

CC Docket No. 96-98

**COMMENTS OF BELL SOUTH**

**BELLSOUTH CORPORATION**

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**COMMENTS OF BELL SOUTH**

BellSouth Corporation, by counsel and on behalf of itself and its affiliated companies ("BellSouth"),<sup>1</sup> respectfully submits these comments on the above-captioned state petition seeking additional authority to implement various number conservation measures.<sup>2</sup> The Commission's recent *Numbering Resource Optimization Order* ("NRO Order")<sup>3</sup> addresses most of the delegations of authority sought by the Kentucky Public Service Commission ("KPSC"); consequently, further consideration of these issues is no longer necessary. With respect to the KPSC request for authority to conduct number

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<sup>1</sup> BellSouth Corporation is a publicly traded Georgia corporation that holds the stock of companies which offer local telephone service, provide advertising and publishing services, market and maintain stand-alone and fully integrated communications systems, and provide mobile communications and other network services world-wide.

<sup>2</sup> See *Common Carrier Bureau Seeks Comment on the Public Service Commission of Kentucky's Petition for Delegation of Additional Authority To Implement Number Conservation Measures*, CC Docket No. 96-98; NSD File No. L-00-08, *Public Notice*, DA 00-575 (rel. Mar. 15, 2000).

<sup>3</sup> *Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 00-104 (rel. Mar. 31, 2000) ("NRO Order").

pooling, BellSouth requests that the Commission dismiss the pending request without prejudice to the KPSC to refile or submit supplemental information in accordance with the Commission's standard of proof adopted in the *NRO Order*.

**I. BELLSOUTH RECOMMENDS THE KPSC FILE SUPPLEMENTAL INFORMATION TO SUPPORT THE STANDARD OF PROOF ARTICULATED IN THE *NRO ORDER* FOR NUMBER POOLING AUTHORITY.**

BellSouth interprets the KPSC request for authority to implement "mandatory thousand-number block assignments within LNP [local number portability] capable areas" as a request to conduct thousands-block number pooling.<sup>4</sup> This request was filed prior to the adoption of the *NRO Order*; therefore, it does not provide the requisite showing to support a grant of pooling authority under the standard of proof set forth in the *NRO Order*.<sup>5</sup>

The *NRO Order* establishes a process that allows states to cure pending deficient petitions seeking pooling authority. If a pending petition does not demonstrate that the state meets the established criteria for a delegation of pooling authority, "the state commission must supplement its existing filing with the Common Carrier Bureau within 30 days of release of" the *NRO Order*.<sup>6</sup> Thus, the KPSC is free to supplement its pending petition in order to comply with the Commission's standard of proof. In the event that

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<sup>4</sup> See KPSC Petition at 7.

<sup>5</sup> To receive Commission authority to implement number pooling, each state must demonstrate that: 1) an NPA in its state is in jeopardy; 2) the NPA in question has a remaining life span of at least a year; and 3) that NPA is in one of the largest 100 MSAs, or alternatively, the majority of wireline carriers in the NPA are LNP-capable. *NRO Order*, ¶ 170. States that do not meet all of the above criteria can still request pooling authority upon a satisfactory showing of "special circumstances." *Id.*

<sup>6</sup> *NRO Order*, ¶ 170.

the KPSC supplements its petition with additional information, the Commission should afford interested parties an opportunity to comment on such information.

BellSouth encourages the Commission to place Kentucky in its appropriate slot in the national rollout schedule for thousands-block number pooling. As the Commission properly concluded, a staggered rollout schedule is preferable in order to minimize network disruptions, allow carriers sufficient time to upgrade their systems, and not overburden the pooling administrator.<sup>7</sup> To accommodate this staggered rollout, the Commission has concluded that the “thousands-block number pooling should first occur in NPAs that are located in the largest 100 MSAs.”<sup>8</sup> It is our assumption that at least one NPA in Kentucky (Louisville – 502 NPA) will be included in the Commission’s initial rollout schedule for the top 100 MSAs.<sup>9</sup> If, however, Kentucky is not included in the initial rollout, the KPSC may petition the Commission to “opt in” to the national schedule.<sup>10</sup>

In light of the Commission’s decision to continue accepting individual state requests for interim pooling authority, BellSouth urges the Commission to re-emphasize the following obligations imposed on states:

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<sup>7</sup> *Id.*, ¶ 159.

<sup>8</sup> *Id.*, ¶ 158.

<sup>9</sup> We base this assumption on the fact that Louisville was included as one of the top 100 MSAs in the schedule for implementing number portability. *See Telephone Number Portability*, 11 FCC Rcd 8352, Appendix F (1996).

<sup>10</sup> *NRO Order*, ¶ 164.

- All “state commissions receiving new delegations of pooling authority [ ] must conform to the national framework.”<sup>11</sup>
- Number pooling authority does not relieve states of their responsibility to provide timely area code relief.<sup>12</sup>
- States may not require non-LNP capable carriers to participate in thousands-block pooling.<sup>13</sup>
- “States implementing pooling must also ensure that they provide carriers with an adequate transition time to implement pooling in their switches and administrative systems.”<sup>14</sup>
- States granted authority to conduct pooling trials in advance of the national rollout must develop cost recovery mechanisms that are competitively neutral.<sup>15</sup>

\* \* \*

In sum, BellSouth requests that the Commission dismiss the KPSC petition without prejudice to refile or submit additional information in accordance with the Commission’s standard. Should the Commission grant the instant petition without the submission of additional information, it should do so in a manner that does not jeopardize the national pooling implementation schedule and ensures compliance with the national pooling requirements.

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<sup>11</sup> *Id.*, ¶ 169.

<sup>12</sup> *Id.*, ¶ 171 (“to ensure that consumers are never foreclosed from exercising their choice of carrier because that carrier does not have access to numbering resources, state commissions must take all necessary steps to prepare an NPA relief plan when it seeks to implement a pooling trial in an NPA which is in jeopardy.”).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* Although the Commission has granted ten states authority to conduct pooling trials and a number of these trials have already commenced, no state has developed a cost recovery mechanism. Since the Commission’s national cost recovery plan cannot become effective until national pooling implementation occurs, it is even more important that states be required to fulfill their obligation to establish competitively neutral cost recovery plans.

**II. THE KPSC REQUEST TO RECLAIM CODES HAS BEEN ADDRESSED BY THE COMMISSION'S *NRO ORDER*, WHICH GRANTS ALL STATES AUTHORITY TO DIRECT THE NANPA TO RECLAIM CODES.**

The Commission need no longer decide whether to grant the KPSC request to undertake code reclamation.<sup>16</sup> The *NRO Order* grants all state commissions, including the KPSC, specific authority regarding reclaiming numbers. The Commission's new rules define the roles of state commissions, the North American Numbering Plan Administrator ("NANPA"), and the Commission in the reclamation process.<sup>17</sup>

Specifically, the Commission has granted states authority to:

- investigate and determine whether code holders have activated NXXs assigned to them within the specified time frames and request proof from all code holders that NXX codes have been activated and assignment of the numbers has commenced;<sup>18</sup>
- deviate from the reclamation procedures set forth in the Central Office Code Assignment Guidelines that relate to referring the issue to the Industry Numbering Committee, as long as the state commission accords the code holder an opportunity to explain the circumstances causing the delay in activating NXX codes.<sup>19</sup>

Although the Commission did not authorize states themselves to reclaim numbers, the agency did grant states authority to direct the NANPA and the Pooling Administrator to reclaim unactivated or unused numbers.<sup>20</sup> Thus, the parameters of state authority in the reclamation process have been established. If the KPSC wishes to implement reclamation as a number conservation measure, it is authorized to do so as long as it acts consistently with the rules adopted in the *NRO Order*.

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<sup>16</sup> KPSC Petition at 7.

<sup>17</sup> *NRO Order*, ¶ 237 (to be codified at 47 C.F.R. § 52.15(i)).

<sup>18</sup> *Id.* (to be codified at 47 C.F.R. § 52.15(i)(1)).

<sup>19</sup> *Id.*, ¶ 239 (to be codified at 47 C.F.R. § 52.15(i)(4)).

<sup>20</sup> *Id.*, ¶¶ 237, 238 (to be codified at 47 C.F.R. § 52.15(i)(5)).

**III. THE KPSC REQUEST TO ESTABLISH FILL RATES FOR GROWTH CODES HAS BEEN ADDRESSED BY THE COMMISSION'S ADOPTION OF NATIONAL RULES GOVERNING A CARRIER'S ABILITY TO OBTAIN GROWTH NUMBERING RESOURCES.**

The KPSC Petition requests authority to establish fill rates for growth codes that must be met before carriers may acquire additional codes.<sup>21</sup> In its *NRO Order*, the Commission set forth requirements that a carrier must satisfy in order to obtain a growth code. Consequently, consideration of the KPSC request for delegated authority to establish fill rates is no longer necessary.

The Commission's new rules require a carrier seeking to obtain a growth code to submit to the NANPA an application that includes:

- (1) a Months-to-Exhaust worksheet that provides utilization by rate center for the preceding six months and projected monthly utilization for the next twelve months; and
- (2) the current numbering resource utilization level for the rate center in which the carrier is seeking growth numbering resources.<sup>22</sup>

The Commission therefore need not decide whether to grant the KPSC request to establish fill rates. The *NRO Order* establishes national verification standards and uniform reporting requirements to which carriers and state commissions must adhere.

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<sup>21</sup> KPSC Petition at 7.

<sup>22</sup> *NRO Order*, ¶ 104 (to be codified at 47 C.F.R. § 52.15(g)(i)).



**IV. THE KPSC REQUEST TO REQUIRE SEQUENTIAL NUMBERING HAS BEEN ADDRESSED BY THE COMMISSION'S ADOPTION OF NATIONAL RULES REGARDING SEQUENTIAL NUMBERING ASSIGNMENT.**

The Commission should dismiss the KPSC request for authority to require sequential numbering assignment since this issue has already been addressed in the *NRO Order*.<sup>23</sup> In that order, the Commission established a framework for sequential numbering assignment<sup>24</sup> that all state commissions (including those granted previous delegated authority)<sup>25</sup> must follow. In adopting these rules, the Commission “recognize[d] the potential inconvenience and confusion from the existence of disparate requirements, and believe[d] that a uniform requirement [would] be more manageable.”<sup>26</sup> Since the Commission has set forth national, uniform requirements for sequential numbering assignment, there is no longer a need to grant the KPSC authority to order this conservation measure.

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<sup>23</sup> See KPSC Petition at 8.

<sup>24</sup> See *NRO Order*, ¶¶ 244-246 (to be codified at 47 C.F.R. § 52.15(j)). The Commission’s rule “mandates that carriers first assign all available telephone numbers within an opened thousands-block before opening another thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a customer request.” *NRO Order*, ¶ 246. This requirement applies to a carrier’s existing numbering resources as well as any new numbering resources it obtains in the future. *Id.*

<sup>25</sup> States previously granted authority to require sequential numbering assignment must conform their existing requirements to the national rules by January 1, 2001. *NRO Order*, ¶ 246.

<sup>26</sup> *NRO Order*, ¶ 246.

**V. THE KPSC REQUEST TO ESTABLISH REPORTING REQUIREMENTS HAS BEEN ADDRESSED BY THE COMMISSION'S ADOPTION OF NATIONAL REPORTING RULES.**

In its Petition, the KPSC seeks delegated authority to require carriers to submit utilization and forecasting reports.<sup>27</sup> Again, BellSouth submits that consideration of this request is no longer necessary because the *NRO Order* extensively details the national reporting obligations of carriers. The Commission's rules describe the types of reports that must be submitted, the information that must be included, the frequency of reporting, and the penalties for non-compliance.<sup>28</sup>

In its *NRO Order*, the Commission expressly declined to grant states authority to impose additional regularly scheduled reporting requirements on any carriers.<sup>29</sup> According to the Commission, "the maximum number of reports that any carrier should be required to file in any year is two and that, in markets where there is little change in numbering utilization, annual reporting is adequate."<sup>30</sup>

The Commission's reporting framework recognizes the need for states to have access to carrier information regarding numbering utilization. In fact, all states have access to the federally ordered reports.<sup>31</sup> The Commission reasoned that such access would "eliminat[e] the need for states to require carriers to report utilization and forecast data on a regular basis."<sup>32</sup> The Commission also established an exception to the

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<sup>27</sup> KPSC Petition at 8.

<sup>28</sup> See *NRO Order*, ¶¶ 37-84.

<sup>29</sup> *Id.*, ¶ 76 ("We will not delegate authority to the states to impose additional regularly scheduled reporting requirements on any carriers.").

<sup>30</sup> *Id.*, ¶ 65. The Commission delegated to state commissions the authority to reduce the frequency of reporting in their states to annually. However, states are prohibited from increasing the frequency of reporting except under certain circumstances. *Id.*, ¶ 67.

<sup>31</sup> *Id.*, ¶¶ 75-76.

<sup>32</sup> *Id.*, ¶ 76.

“prohibition on state-ordered reporting.” This exception allows states to establish limited reporting requirements only in those “instances where states need to gather data for a specific purpose, as long as these data reporting requirements do not become regularly scheduled state-level reporting requirement[s].”<sup>33</sup> Commission consideration of the KPSC request to require utilization and forecast reporting is no longer necessary given the adoption of national reporting requirements in the *NRO Order*.

## **VI. THE COMMISSION SHOULD NOT GRANT INDIVIDUAL STATES AUDIT AUTHORITY IN ADVANCE OF THE ADOPTION OF NATIONAL AUDIT REQUIREMENTS.**

The KPSC requests authority to conduct audits of a carrier’s use of numbering resources.<sup>34</sup> Instead of granting interim audit authority to Kentucky or any other state, the Commission should direct its attention to establishing national audit standards. In its *NRO Order*, the Commission deferred the adoption of audit requirements to a subsequent order.<sup>35</sup>

BellSouth believes that the Commission should decline to grant states interim audit authority for the following reasons. First, the Commission has repeatedly articulated the value derived from a national, uniform approach to number conservation.<sup>36</sup>

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<sup>33</sup> *Id.*

<sup>34</sup> KPSC Petition at 8-9.

<sup>35</sup> *NRO Order*, ¶ 62.

<sup>36</sup> See, e.g., *NRO Order*, ¶ 3 (“The rapid depletion of numbering resources nationwide and the potential it creates for NANP exhaust are national problems that must be dealt with at the federal level.”); ¶ 12 (“uniform definitions for numbering use are essential for ensuring that numbering resources are used efficiently.”); *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, NSD File No. L-97-42, 13 FCC Rcd 19009, 19023, ¶ 21 (1998) (“Substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised

The Commission appropriately adhered to that principle in the *NRO Order* by adopting national requirements for carrier reporting, reclamation, utilization, etc. that supersede all previous delegations to individual states. Establishing national audit guidelines instead of allowing states to develop disparate requirements would be the most effective and efficient approach. Under a national framework, carriers would avoid the expense and burden of complying with different states' audit regimes.

Second, interim audit authority is simply premature in light of the Commission's new reporting rules. It will be some time before a state could even conduct an audit to determine compliance with the Commission's new requirements. For example, carriers do not have to file their first report incorporating the new rules until August 1, 2000.<sup>37</sup> Thus, the earliest a state could conduct an audit would be after August 1, 2000 – which is more than three months away. In addition, a number of administrative tasks must be completed before carriers can commence reporting in accordance with the Commission's rules. For example, new reporting forms must be created and approved by the federal government,<sup>38</sup> and filing procedures must be established by the NANPA in order to collect data from carriers.<sup>39</sup>

Finally, no party is harmed by waiting to adopt national guidelines. In fact, carriers may be helped because they would not have to satisfy different state audit

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by states imposing varying and inconsistent regimes for number conservation and area code relief.”)

<sup>37</sup> *NRO Order*, ¶ 67.

<sup>38</sup> The Commission has directed the NANPA to develop a reporting form for both utilization and forecast data reporting and submit it to the Common Carrier Bureau for review and submission to the Office of Management and Budget. *NRO Order*, ¶ 52.

<sup>39</sup> The NANPA must work with carriers of all sizes to establish appropriate procedures for filing data with the NANPA. See *NRO Order*, ¶ 53.

requirements. In light of the above, the Commission should decline to grant the KPSC request for audit authority.


## VII. CONCLUSION

BellSouth applauds the KPSC's desire to address proactively the issues associated with number conservation and optimization. As demonstrated herein, most of the delegations of authority sought by the KPSC have already been addressed in the Commission's *NRO Order*. Therefore, further consideration by the Commission is no longer necessary. With respect to the KPSC request for authority to conduct number pooling, BellSouth requests that the Commission dismiss the pending request without prejudice to the KPSC to refile or submit supplemental information in accordance with the Commission's standard of proof adopted in the *NRO Order*.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I do hereby certify that I have this 14th day of April, 2000, served the following parties to this action with a copy of the foregoing **COMMENTS OF BELLSOUTH CORPORATION**, reference NSD File No. L-00-08 and CC Docket No. 96-98, by hand delivery or by placing a true and correct copy of the same by Federal Express or in the United States Mail, addressed to the parties listed below.

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